



# NORFOLK

*Office of the City Attorney*

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MICHAEL A. BEVERLY

September 11, 2018

To the Honorable Council  
City of Norfolk, Virginia

**R-5**

Re: Approve License Agreement with  
Norfolk Airport Authority

Dear Ladies and Gentlemen:

An Ordinance approving the License Agreement between the City of Norfolk and the Norfolk Airport Authority for use of certain space located at 2200 Norview Avenue.

Respectfully,

A handwritten signature in black ink, appearing to read "B. Pishko".

Bernard A. Pishko  
City Attorney

BAP:pfh  
Attachment

8/21/2018 - JEC:pfh

Form and Correctness Approved:

By

Office of the City Attorney

Contents Approved:

By

DEPT.

NORFOLK, VIRGINIA

## ORDINANCE No. 47,372

R-5

AN ORDINANCE APPROVING A LICENSE AGREEMENT WITH THE NORFOLK AIRPORT AUTHORITY FOR THE USE OF CERTAIN SPACE LOCATED AT 2200 NORVIEW AVENUE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the terms and conditions of a License Agreement ("Agreement") between the Norfolk Airport Authority ("Property Owner") and the City of Norfolk ("City"), a copy of which is attached hereto as Exhibit A, whereby Property Owner permits City to install removable artwork on its grounds, are hereby approved.

Section 2:- That the City Manager, and other proper officers of the City, are authorized to execute the Agreement on behalf of the City.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Agreement as he may deem necessary in order to carry out the purposes of the Agreement.

Section 4:- That this ordinance shall be in effect from and after the date of its adoption.

Adopted by Council September 11, 2018  
Effective September 11, 2018

TRUE COPY  
TESTE:

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RICHARD ALLAN BULL, CITY CLERK

BY: 

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CHIEF DEPUTY CITY CLERK

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "License") is made as of the 21<sup>st</sup> day of June, 2018, by and between the NORFOLK AIRPORT AUTHORITY, a political subdivision of the Commonwealth of Virginia (the "Authority"), Grantor, and the CITY OF NORFOLK, a municipal corporation of the Commonwealth of Virginia (the "City"), Grantee, whose address is 810 Union Street, Suite 1101 City Hall Building, Norfolk, Virginia 23510.

### RECITALS:

WHEREAS, the Authority is the owner and operator of the Norfolk International Airport (the "Airport"), with an address of 2200 Norview Avenue, Norfolk, Virginia (the "Property"); and

WHEREAS, the City and Don Kennell (the "Artist") have entered into that certain City of Norfolk Art in Public Places Agreement – Norfolk International Airport, dated of even date herewith (the "Agreement"), pursuant to which the Artist agreed to design, fabricate and install a work of art (the "Artwork") on the Property; and

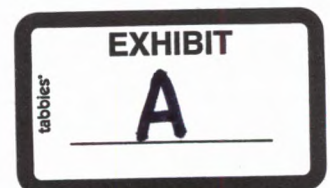
WHEREAS, the Authority, although not a party to the Agreement, has certain rights under the Agreement with respect to the Artwork, including without limitation, approval of the final design and location of the Artwork on the Property; and

WHEREAS, the City has requested authorization from the Authority to enter onto the Property for the purposes of installation, maintenance and repair of the Artwork on the Property, pursuant to the Agreement; and

WHEREAS, the Authority has agreed to authorize entry onto the Property for such purposes, subject to the Authority's rights under the Agreement, and under the conditions as further set forth in this License.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Authority do hereby agree as follows:

1. The Authority does hereby grant a license and permit the City to enter upon the Property for the purposes of installation, maintenance, preservation, repair and general care of the Artwork, without monetary consideration, so long as such installation, maintenance, preservation, repair and general care of the Artwork is in accordance with all laws, ordinances, regulations, the Agreement, and this License.





2. The City acknowledges that the City acquires no prescriptive rights whatsoever in and to the Property by virtue of this License.

3. The City shall cooperate with the Authority to determine a mutually agreeable date and time for the installation of the Artwork on the Property. Upon installation, the Artwork shall be owned entirely by the City, and the City shall at all times be solely responsible for its maintenance, preservation, repair, and general care. The Authority shall have no responsibility whatsoever for the maintenance, preservation, repair or general care of the Artwork, all of which shall be the responsibility of the City.

4. In the event the Authority determines, in its sole discretion, that the Artwork constitutes or may constitute a hazard to air navigation (including without limitation, aircraft taking off from or landing at the Airport) or otherwise interferes with the operations of the Airport, the Authority may require the City to remove the Artwork by sending written notice to the City specifying the date by which the Artwork must be removed from the Property. Upon receipt of such notice, the City shall take all steps necessary to remove the Artwork by such date. At the City's discretion, and with the agreement of the Authority, the City may relocate the Artwork to a different location on the Property acceptable to the Authority in its sole discretion.

5. This License shall terminate upon the earlier of (i) removal of the Artwork pursuant to Section 4 above, or (ii) termination of the Agreement. Upon termination of this License and the removal of the Artwork, the City shall return the Property to its pre-installation condition.

6. The City shall be responsible for any and all damage to the Property or any other property of the Authority resulting from the entry onto the Property pursuant to this License by the Artist, the City, or the City's officers, agents, employees, representatives or contractors.

7. In no event shall the Authority be responsible or liable for any damage to or destruction of the Artwork for any reason whatsoever.

8. The Authority shall have no liability for personal injury to the Artist, or the City's officers, agents, employees, representatives, or contractors, nor shall the Authority have any liability for any property damage or destruction resulting from the entry onto the Property by the Artist, the City, or the City's officers, employees, agents, representatives or contractors.

9. This License shall be governed by the laws of the Commonwealth of Virginia, without regard to its conflicts of law principles.

10. This License may not be modified or amended in any respect except in a writing signed by all parties to this License.

11. This License, and the rights and privileges granted to the City, and the exercise thereof, are expressly subject to all terms, conditions, restrictions, and rights set forth in any instrument of record affecting the Property or any portion thereof.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the authorized officers of the parties have executed this License Agreement as of the date and year first above mentioned.

**GRANTOR:**

**NORFOLK AIRPORT AUTHORITY**

a political subdivision of the  
Commonwealth of Virginia

By: Robert H. Bowen [SEAL]  
Name: Robert Bowen  
Title: Executive Director

**COMMONWEALTH OF VIRGINIA  
CITY OF NORFOLK, to-wit:**

I, Mesha L. Vargas, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on March 31, 2022; do hereby certify that Robert Bowen, Executive Director of the Norfolk Airport Authority, a political subdivision of the Commonwealth of Virginia, whose name is signed to the foregoing License Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this 25<sup>th</sup> day of June, 2018.



Mesha L. Vargas  
Notary Public  
Registration No. 7507343

[Remainder of page intentionally left blank. Signature pages follow.]



**GRANTEE:**

**CITY OF NORFOLK**

By: \_\_\_\_\_ [SEAL]  
City Manager

**Attest:**

\_\_\_\_\_  
City Clerk

**COMMONWEALTH OF VIRGINIA  
CITY OF NORFOLK, to-wit:**

I, \_\_\_\_\_, a Notary Public in and for the City of Norfolk, in the State of Virginia, whose term of office expires on the \_\_\_\_ day of \_\_\_\_\_, do hereby certify that Douglas L. Smith, City Manager and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing License Agreement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this \_\_\_\_ day of June, 2018.

\_\_\_\_\_  
Notary Public  
Registration No. \_\_\_\_\_

**Contents Approved:**

\_\_\_\_\_  
Director, Cultural Facilities Arts  
and Entertainment

**Approved as to Form and Correctness:**

\_\_\_\_\_  
Deputy City Attorney